

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: MIDAMERICAN ENERGY COMPANY	DOCKET NOS. E-21621 E-21622 E-21625 E-21645 E-21646
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**ORDER CONSOLIDATING DOCKETS, DENYING MOTION FOR FLEXIBLE
SCHEDULE, APPROVING NOTICE OF EMINENT DOMAIN,
AND ASSIGNING TO ADMINISTRATIVE LAW JUDGE**

(Issued September 9, 2004)

On December 5, 2003, MidAmerican Energy Company (MidAmerican) filed with the Utilities Board (Board) five electric franchise petitions for a total of 122.2 miles of 345,000-volt electric transmission line in Pottawattamie, Cass, Dallas, Adair, and Madison counties. The petitions are identified as Docket Nos. E-21621, E-21622, E-21625, E-21645, and E-21646, respectively. The proposed transmission line originates at the Council Bluffs Energy Center and terminates at a proposed new electric substation in Grimes. A separate petition was filed for each county through which a segment of the proposed transmission line will be built.

The Board's staff has reviewed the five petitions and notified MidAmerican of deficiencies and additional information required by letters dated April 2, May 5, June 11, June 29, and July 21, 2004. MidAmerican filed revisions to the petition and additional information on April 16, May 13, June 25, July 6, and July 23, 2004. On

August 27, 2004, MidAmerican filed copies of the written notice of eminent domain proceedings pursuant to Iowa Code § 478.6 (2003). On the same date, a Board staff report (Staff Report) was filed concerning the five electric transmission line petitions and proposed transmission line route.

The Staff Report recommends that MidAmerican provide additional information in prefiled testimony or at hearing regarding a number of issues and questions raised. Among the issues identified were those related to the steel tower structures, transfer of service from an existing electric transmission line to the proposed line, additional clearance for buildings or grain bins in nine locations, reliability, eminent domain, and objections. The Staff Report indicates the eminent domain notice is acceptable and that the petitions, exhibits, and notices are in sufficient order procedurally to allow a procedural schedule to be set.

On August 9, 2004, MidAmerican filed a motion to set an expedited procedural schedule. MidAmerican stated that it intends to begin construction on the proposed line on January 3, 2005. MidAmerican asked that the procedural schedule not set specific dates for filing testimony but instead that time periods be set for responsive testimony and hearing. These time periods would be set in motion once MidAmerican filed its direct testimony. In other words, no specific filing dates for testimony or hearing would be known until MidAmerican filed its direct testimony. In the motion, MidAmerican also requested that the five individual dockets be consolidated for hearing.

Carl Hays filed an objection to MidAmerican's motion on August 16, 2004. Mr. Hays expressed concerns about consolidating the dockets, arguing that a combined hearing would unnecessarily short change the objectors because the issues in each docket are unique. Mr. Hays also expressed concerns about shortening the response times.

Iowa Code § 478.6 (2003) requires the Board to set a hearing on a franchise application if an objection is filed or eminent domain requested. Eminent domain is requested in two of the dockets and objections have been filed in four dockets. Taken together, either an objection or an eminent domain request has been filed in each docket. Therefore, a hearing must be set in each docket. The Board will consolidate the dockets for hearing. The dockets are part of a single, larger project and are interrelated with common questions of law and fact. In such instances, consolidating the dockets for hearing and procedural schedule is the most efficient and effective way to proceed, particularly for those, like the Consumer Advocate Division of the Department of Justice, that are parties to each docket. The Board is confident that each objector will be given a full opportunity to present his or her individual objections both to the project as a whole and to the specific docket directly impacting the objector. The hearing will be held in Atlantic because Cass County is the county seat of the county at the midpoint of the proposed line. Iowa Code § 478.6.

The Board will not, however, adopt MidAmerican's proposal for a flexible schedule based on the date MidAmerican files its direct testimony because this does not give adequate notice to the other participants, including four eminent domain parcel owners and 67 objectors. In addition, MidAmerican's proposal is contrary to Iowa Code § 478.6, which requires the Board to "fix" a time and place for hearing. This section also requires that the hearing be held not less than 30 days after the last published and written notice of the hearing is served. Failure to set a specific hearing date would make compliance with this section difficult.

To expedite the hearing process, the Board will assign these consolidated dockets to an administrative law judge (ALJ). The ALJ is directed to set an expedited procedural schedule that will complete the proceedings by the end of the year, to the extent possible. The schedule should contain specific dates for filing testimony and hearing.

The Board will approve the eminent domain notice. The notice appears to comply with statutory requirements.

IT IS THEREFORE ORDERED:

1. Docket Nos. E-21621, E-21622, E-21625, E-21645, and E-21646 are consolidated for purposes of hearing and procedural schedule.
2. The motion for a flexible procedural schedule with non-specific dates for filing testimony and hearing is denied.

3. The notice of eminent domain proceedings filed by MidAmerican Energy Company on August 27, 2004, is approved.

4. Pursuant to Iowa Code § 17A.11(1)"b" (2003) and 199 IAC 7.1(4), Docket Nos. E-21621, E-21622, E-21625, E-21645, and E-21646 are assigned to the Board's administrative law judge, Amy Christensen, to, among other things, set a procedural schedule, conduct a hearing, and issue a proposed decision. The administrative law judge shall have the authority provided under 199 IAC 7.1(4)"a" through "j." To the extent possible, the administrative law judge should set an expedited procedural schedule consistent with this order.

UTILITIES BOARD

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 9th day of September, 2004.